IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO.19160 of 2004

Between:

Vasi Reddy Varada Rama Rao, S/o. Krishna Murthy Naidu,
R/o. Pinapenki Village, Badangi Mandal, Vizianagaram District.

...PETITIONER

AND

1. The State of Andhra Pradesh, Cooperation Department, Rep.by its Secretary, Secretariat, Hyderabad.
2. The Special Cadre Deputy Registrar of Cooperative Societies-cum-District Cooperative Officer, Vizianagaram, Vizianagaram District.
3. The Divisional Cooperative Officer, Parvathipuram, Vizianagaram District.
4. Pinapenki Primary Agricultural Cooperative Society Ltd.,Pinapenki, Badangi Mandal, Vizianagaram District, rep.by its President/Person-in-charge.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction, more particularly one in the nature of Writ of Mandamus by declaring the Rc.No.2439/88-C, dated 29.09.2004 of the Divisional Cooperative Officer, Parvathipuram, as illegal, arbitrary and violative of Article 14 and 21 of the constitution of India and also against to the provisions of the A.P. Cooperative Societies Act, 1964 and Rules made there under and consequently direct the respondents to drop the execution proceedings against the petitioner.

Counsel for the Petitioner: MR.V.AJAYAKUMAR
Counsel for the Respondents: GP FOR COOPERATION

The Court made the following:

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO.19160 of 2004

ORDER:

As can be seen from the impugned proceedings dated 29.09.2004, a surcharge order was passed against the petitioner long back on 30-09-1989 and the appeal against the said order was also dismissed by the Tribunal on 26.10.1998. In pursuance thereof, Execution proceedings have been initiated for recovery of the amounts due. At that stage, the petitioner while placing reliance upon a subsequent enquiry report of the Divisional Cooperative Officer, Parvathipuram, dated 31.05.2003, made a petition before the third respondent to suspend the execution proceedings contending that as per the second enquiry report the allegation of the benami loans was not established and therefore the liability cannot be fixed against him. The third respondent declined to stay the execution proceedings by order dated 29-09-2004, which is under challenge in this writ petition.

Since, admittedly, the surcharge order against the petitioner has become final, I am of the view that the third respondent has rightly refused to stay of the execution proceedings. The said order does not suffer from any infirmity warranting interference by this Court.

The Writ Petition is accordingly dismissed. No costs.

However, this shall not preclude the petitioner to take appropriate proceedings as available under law for setting aside the surcharge order dated 30-09-1989 on the basis of the fresh enquiry report.

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(G.ROHINI, J)

14th October 2004

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Secretary, State of Andhra Pradesh, Cooperation Department, Secretariat, Hyderabad.
2. The Special Cadre Deputy Registrar of Cooperative Societies-cum-District Cooperative Officer, Vizianagaram, Vizianagaram District.
3. The Divisional Cooperative Officer, Parvathipuram, Vizianagaram District.
4. The President/Person-in-charge, Pinapenki Primary Agricultural Cooperative Society Ltd., Pinapenki, Badangi Mandal, Vizianagaram District.
5. Two CCs to GP for Cooperation, High Court Buildings, Hyderabad (OUT).
6. Two CD copies.